

111TH CONGRESS  
1ST SESSION

# S. 213

To amend title 49, United States Code, to ensure air passengers have access to necessary services while on a grounded air carrier, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 12, 2009

Mrs. BOXER (for herself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend title 49, United States Code, to ensure air passengers have access to necessary services while on a grounded air carrier, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Airline Passenger Bill  
5 of Rights Act of 2009”.

6 **SEC. 2. AIRLINE CUSTOMER SERVICE COMMITMENT.**

7 (a) IN GENERAL.—Chapter 417 of title 49, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

1 “SUBCHAPTER IV—AIRLINE CUSTOMER  
2 SERVICE

3 “§ 41781. Air carrier and airport contingency plans  
4 for long on-board tarmac delays

5 “(a) DEFINITION OF TARMAC DELAY.—The term  
6 ‘tarmac delay’ means the holding of an aircraft on the  
7 ground before taking off or after landing with no oppor-  
8 tunity for its passengers to deplane.

9 “(b) SUBMISSION OF AIR CARRIER AND AIRPORT  
10 PLANS.—Not later than 60 days after the date of the en-  
11 actment of the Airline Passenger Bill of Rights Act of  
12 2009, each air carrier and airport operator shall submit,  
13 in accordance with the requirements under this section,  
14 a proposed contingency plan to the Secretary of Transpor-  
15 tation for review and approval.

16 “(c) MINIMUM STANDARDS.—The Secretary of  
17 Transportation shall establish minimum standards for ele-  
18 ments in contingency plans required to be submitted under  
19 this section to ensure that such plans effectively address  
20 long on-board tarmac delays and provide for the health  
21 and safety of passengers and crew.

22 “(d) AIR CARRIER PLANS.—The plan shall require  
23 each air carrier to implement at a minimum the following:

24 “(1) PROVISION OF ESSENTIAL SERVICES.—

25 Each air carrier shall provide for the essential needs

1 of passengers on board an aircraft at an airport in  
2 any case in which the departure of a flight is de-  
3 layed or disembarkation of passengers on an arriving  
4 flight that has landed is substantially delayed, in-  
5 cluding—

6 “(A) adequate food and potable water;

7 “(B) adequate restroom facilities;

8 “(C) cabin ventilation and comfortable  
9 cabin temperatures; and

10 “(D) access to necessary medical treat-  
11 ment.

12 “(2) RIGHT TO DEPLANE.—

13 “(A) IN GENERAL.—Each air carrier shall  
14 submit a proposed contingency plan to the Sec-  
15 retary of Transportation that identifies a clear  
16 time frame under which passengers would be  
17 permitted to deplane a delayed aircraft. After  
18 the Secretary has reviewed and approved the  
19 proposed plan, the air carrier shall make the  
20 plan available to the public.

21 “(B) DELAYS.—

22 “(i) IN GENERAL.—As part of the  
23 plan, except as provided under clause (iii),  
24 an air carrier shall provide passengers with  
25 the option of deplaning and returning to

1 the terminal at which such deplaning could  
2 be safely completed, or deplaning at the  
3 terminal if—

4 “(I) 3 hours have elapsed after  
5 passengers have boarded the aircraft,  
6 the aircraft doors are closed, and the  
7 aircraft has not departed; or

8 “(II) 3 hours have elapsed after  
9 the aircraft has landed and the pas-  
10 sengers on the aircraft have been un-  
11 able to deplane.

12 “(ii) FREQUENCY.—The option de-  
13 scribed in clause (i) shall be offered to pas-  
14 sengers at a minimum not less often than  
15 once during each successive 3-hour period  
16 that the plane remains on the ground.

17 “(iii) EXCEPTIONS.—This subpara-  
18 graph shall not apply if—

19 “(I) the pilot of such aircraft  
20 reasonably determines that the air-  
21 craft will depart or be unloaded at the  
22 terminal not later than 30 minutes  
23 after the 3 hour delay; or

24 “(II) the pilot of such aircraft  
25 reasonably determines that permitting

1 a passenger to deplane would jeop-  
2 ardize passenger safety or security.

3 “(C) APPLICATION TO DIVERTED  
4 FLIGHTS.—This section applies to aircraft with-  
5 out regard to whether they have been diverted  
6 to an airport other than the original destina-  
7 tion.

8 “(D) REPORTS.—Not later than 30 days  
9 after any flight experiences a tarmac delay last-  
10 ing at least 3 hours, the air carrier responsible  
11 for such flight shall submit a written descrip-  
12 tion of the incident and its resolution to the  
13 Aviation Consumer Protection Office of the De-  
14 partment of Transportation.

15 “(e) AIRPORT PLANS.—Each airport operator shall  
16 submit a proposed contingency plan under subsection (b)  
17 that contains a description of—

18 “(1) how the airport operator will provide for  
19 the deplanement of passengers following a long  
20 tarmac delay; and

21 “(2) how, to the maximum extent practicable,  
22 the airport operator will provide for the sharing of  
23 facilities and make gates available at the airport for  
24 use by aircraft experiencing such delays.

1       “(f) UPDATES.—The Secretary shall require periodic  
2 reviews and updates of the plans as necessary.

3       “(g) APPROVAL.—

4               “(1) IN GENERAL.—Not later than 6 months  
5 after the date of the enactment of this section, the  
6 Secretary of Transportation shall—

7                       “(A) review the initial contingency plans  
8 submitted under subsection (b); and

9                       “(B) approve plans that closely adhere to  
10 the standards described in subsections (d) or  
11 (e), whichever is applicable.

12       “(2) UPDATES.—Not later than 60 days after  
13 the submission of an update under subsection (f) or  
14 an initial contingency plan by a new air carrier or  
15 airport, the Secretary shall—

16                       “(A) review the plan; and

17                       “(B) approve the plan if it closely adheres  
18 to the standards described in subsections (d) or  
19 (e), which ever is applicable.

20       “(h) CIVIL PENALTIES.—The Secretary may assess  
21 a civil penalty under section 46301 against any air carrier  
22 or airport operator that does not submit, obtain approval  
23 of, or adhere to a contingency plan submitted under this  
24 section.

1 “(i) PUBLIC ACCESS.—Each air carrier and airport  
 2 operator required to submit a contingency plan under this  
 3 section shall ensure public access to an approved plan  
 4 under this section by—

5 “(1) including the plan on the Internet Web  
 6 site of the carrier or airport; or

7 “(2) disseminating the plan by other means, as  
 8 determined by the Secretary.

9 **“§ 41782. Air passenger complaints hotline and infor-**  
 10 **mation**

11 “(a) AIR PASSENGER COMPLAINTS HOTLINE TELE-  
 12 PHONE NUMBER.—The Secretary of Transportation shall  
 13 establish a consumer complaints hotline telephone number  
 14 for the use of air passengers.

15 “(b) PUBLIC NOTICE.—The Secretary shall notify  
 16 the public of the telephone number established under sub-  
 17 section (a).

18 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
 19 are authorized to be appropriated such sums as may be  
 20 necessary to carry out this section, which sums shall re-  
 21 main available until expended.”.

22 (b) CONFORMING AMENDMENT.—The chapter anal-  
 23 ysis for chapter 417 of title 49, United States Code, is  
 24 amended by adding at the end the following:

“SUBCHAPTER IV—AIRLINE CUSTOMER SERVICE

“41781. Air carrier and airport contingency plans for long on-board tarmac delays.

“41782. Air passenger complaints hotline and information.”.

